

## **~~CHAPTER~~Chapter 1**

### **~~COMPLAINT, PRACTICE AND PROCEDURE~~Complaint, Practice, and Procedure**

**Section 1.** Complaints. All complaints against a licensee or registrant shall be filed with the Board in writing and ~~should~~shall contain:

- (a) Name and address of licensee or registrant;
- (b) Name, address, and telephone number of complainant;
- (c) Nature of alleged violations;
- (d) A short and concise statement of facts relating to the alleged violations;  
and
- (e) Signature of complainant.

**Section 2.** Investigation.

(a) The Board shall consider the complaint to determine if further investigation of the matter is warranted. If further investigation is ~~deemed~~ necessary, the Board shall assign an investigator. The investigator ~~which~~ may be a Board member or the Board may hire an independent investigator to assist a representative of the Attorney General's Office as the investigative committee.

- (b) Upon completion ~~ing~~ of the investigation, the committee may:
- (i) Prepare and file a formal complaint and notice of hearing with the Board, setting the matter for a contested case hearing or;
  - (ii) Recommend to the Board that the complaint be dismissed;;
- (c) The Board may resolve a complaint at any time by:
- (i) Accepting a voluntary surrender of a license;
  - (ii) Accepting conditional terms for settlement; or
  - (iii) ~~Dispensing with it in an informal manner; or~~
  - (iv) Dismissal.

**Section 3.** Service of Notice and Formal Complaint. Notice and Complaint shall be served by the Boards Investigative Committee by mail at least twenty (20) days ~~prior~~before to the ~~date set for~~ hearing. The Board shall send it ~~It shall be sent~~ by certified or registered mail with return receipt ~~thereof~~requested to the last known address of the registrant or licensee.

**Section 4.** Docket. A contested case docket number shall be assigned ~~a number~~ when a complaint is filed with the ~~Boards~~ Investigative Committee. A separate file shall be

established for each docketed case, in which shall be placed all papers, pleadings, documents, transcripts, evidence, and exhibits.

**Section 5.** Answer or Appearance. The licensee or registrant shall file an ~~an ANSWER OR Notice of Appearance, which shall be received by the Board~~ at least ~~threetwenty (320)~~ thirty (30) working days ~~prior to~~ before the date set for hearing.

**Section 6.** Default in Licensee Answering or Appearing. In the event the registrant or licensee fails to answer or otherwise appear within the time allowed, a default shall be entered. and the allegations as set forth in the Notice and Complaint shall be taken as true and the Board may enter an appropriate order. A registrant or licensee in default may attend and participate in any subsequent hearing, but may not introduce evidence.

**Section 7.** Contested Case Hearing.

(a) The hearing shall be conducted by the Office of Administrative Hearings in accordance with its Uniform Rules for Contested Case Practice and Procedure. The hearing officer shall submit proposed findings of fact, conclusions of law and order to the Board within thirty (30) days of the hearing's conclusion. The parties may submit exceptions to the proposed order within ten (10) days after its service. By incorporating the Office of Administrative Hearings' Uniform Rules, the Board makes the following findings;

(i) Incorporating the full text of the Uniform Rules would be cumbersome and inefficient given the length and nature of the rules;

(ii) The incorporation is limited to the Uniform Rules of the Office of Administrative Hearing, effective on October 17, 2014, and shall not include any subsequent editions or amendments to the Uniform Rules;

(iii) Copies of the Uniform Rules are available to the public at the Board's office at 2515 Warren Avenue, Suite 302, Cheyenne, WY 82002 or at <http://cosmetology.wy.gov/Barbers.aspx>.

(b) Proposed orders shall be given consideration, but are not binding upon the Board. All final decisions shall be issued by the Board and shall be based exclusively on the evidence in the record and matters officially noticed. The Investigative Review Committee shall not participate in the Board's final decision.

(c) The Board shall, following the full and complete hearing, make and enter a written decision and order containing findings of fact and conclusions of law. The decision and order shall be filed with the Board.

(d) A licensee aggrieved by a Board decision may file a petition in the district court under the Wyoming Rules of Appellate Procedure and the Administrative Procedure Act.

~~**Section 6.** Discovery. In all contested cases coming before the Board, the taking of depositions and discovery shall be available to the parties.~~

~~**Section 7.** Subpoenas. Subpoenas for appearance and to produce testimony, books, papers, documents, or exhibits may be issued by the Board of hearing officer on behalf of any party to the contested.~~

~~**Section 8.** Contested Case Hearing. All issues and matters set forth in the Notice and Complaint shall be presented to the Board. A licensee or registrant may be represented by an attorney, who is licensed to practice law in this State or is associated with an attorney licensed to practice law in this state.~~

~~**Section 9.** Hearing Officer. The Board may employ and retain a hearing officer to assist and advise the Board in the conduct of the hearing and preparation of recommended findings of fact, conclusions of law and order.~~

~~**Section 10.** Order of Procedure at Hearing. Hearings shall be conducted with the following order of procedure:~~

~~(a) The Board of hearing officer shall announce that the hearing is convened upon the call of the docket number and title of the matter and case to be heard, and thereupon the Board of hearing officer shall incorporate all pleadings into the record and shall note for the record all subpoenas issued and all appearances of record;~~

~~(b) Opening statements may be made;~~

~~(c) All persons testifying at the hearing shall be administered the standard oath;~~

~~(d) The representative of the investigative committee shall thereupon proceed to present committee's evidence. Witnesses may be cross examined by the Licensee or his/her attorney if represented. Redirect examination may be permitted;~~

~~(e) The licensee or registrant shall be heard in the same manner as the investigative committee. The investigative committee shall have the opportunity of cross examination and redirect examination may be permitted.~~

~~(f) Closing statements, at the conclusion of the presentation of evidence, may be made by the parties or attorneys. A rebuttal statement may be made by the investigative committee. The time for oral argument may be limited;~~

~~(g) After all proceedings have been concluded, the Board or hearing officer shall excuse all witnesses and declare the hearing closed. Any party may submit written briefs of law to the Board or hearing officer. The Board may take the case under advisement. The decision of the Board shall be announced within due and proper time following consideration of all of the matters presented at the hearing and exception filed by any party to a hearing officer's recommended decision;~~

~~(h) The Board and hearing officer shall retain the right and opportunity to examine any witness upon the conclusion of all testimony offered by a particular witness.~~

~~**Section 11.** Rules of Civil Procedure to Apply. The rules of practice and procedure contained in the Wyoming Rules of Civil Procedure insofar as they are applicable and not inconsistent with the matters before the Board and applicable to the rules and orders promulgated by the Board shall apply.~~

~~**Section 12.****Section 8.** Attorneys. The filing of an answer or other appearance by an attorney constitutes an appearance for the party for whom the pleading is filed. The Board and all parties shall be notified in writing of any withdrawal. Any person appearing before the Board at a hearing in a representative capacity shall be precluded from examining or cross-examining any witness unless the person is an attorney licensed to practice law in this State, or is associated with an attorney licensed to practice law in this State. This rule shall not be construed to prohibit any licensee or registrant from representing his/herself before the Board, but any licensee or registrant appearing on his/her own behalf must abide by all procedural rules established for the hearing.~~

~~**Section 13.****Section 9.** Attorney General to be Present. In all hearings held upon formal action brought before the Board, a representative of the Office of the Attorney General of Wyoming shall appear on behalf of the State, Investigative Committee, and shall present all evidence, testimony, and legal authority in support of the Notice and Complaint to be considered by the Board.~~

~~**Section 14.****Section 10.** Record of Proceedings. When the denial, revocation, or suspension of any license or registrant is the subject for hearing, it shall be ~~regarded as~~ a contested case and the proceedings, ~~including all testimony~~, shall be reported ~~verbatim~~ by a court reporter or other adequate means or device.~~

**Section 15.** ~~Decision. Findings of Fact and Conclusions of Law and Order.~~

~~(a) The Board shall, with the assistance of the hearing officer, following the full and complete hearing, make and enter a written decision and order containing findings of fact and conclusions of law. The decision and order shall be filed with the Board and shall, bear execution, become the decision and order as a result of the hearing.~~  
be the Boards final decision subject to judicial review under the WAPA.

~~(b) No member, staff, or agent of the Board who participated or advised in the investigation of presentation of evidence at the hearing shall participate or advise in decision.~~

~~(c) (a) Upon entry and filing, the Board shall mail copies of the decision to each licensee or registrant and attorneys of records.~~

**Section 16.** ~~Appeals to District Court. Appeals from Board decisions shall be taken to the District Court having jurisdiction and proper venue in accordance with applicable statutes and the Wyoming Rules of Appellate Procedure.~~

**Section 17.** ~~Transcript in Case of Appeal. In an appeal to the District Court, the appellant shall pay and arrange for the transcript of the testimony. The transcript shall be verified by oath of the reporter or transcriber as a true and correct transcript of the testimony and other evidence in the case.~~